



AT A GLANCE

Leadership for Responsible AI

A Constructive Agenda for NSW

JMI Collaborative Project | December 2023

AI is a key policy challenge

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AI has pervasive, far-reaching and global implications that are transforming societies, economic sectors and the world of work, and are likely to increasingly do so in the future.



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Using AI safely and responsibly is a balancing act the whole world is grappling with at the moment.



The Hon. Ed Husic MP
Minister for Industry and Science

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There is an opportunity for the Parliament to lead the world and this country in the adoption of and adaptation to AI.



The Hon. Daniel Mookhey MP
Treasurer of NSW

Headlines

- The NSW Government is well placed to **take a leading role** in addressing the impact of AI activity, for the benefit of our economy and local communities.
- The NSW Government is widely recognised as a **global digital leader**. This provides a strong foundation for the public sector to confidently pursue a constructive agenda that supports AI technologies in the market to have wide social and economic benefit for people in the state.
- This agenda builds on **clear strengths in the private sector**. With established clusters of advanced computing businesses, the state benefits from 41 per cent of all Australian software and application programmers and 45 per cent of all Australian AI businesses.
- Positioning NSW as home for effectively regulated, trustworthy AI will support the state to be **a more attractive site for AI investment and innovation**, while ensuring people and communities benefit fairly from emerging technologies.
- Addressing this challenge will involve leveraging and improving existing laws and policies, and considering new regulations to specifically address AI.

Three key areas for government intervention

The NSW Government has already made substantial progress in assuring the government's own use of AI. Now is a critical moment for the NSW Government to go further and enact a coordinated, considered response to the regulation, market shaping, and public sector capability uplift needed in the future for this technology.

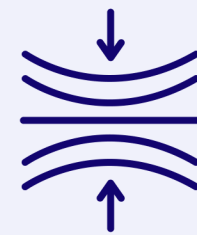
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Regulation

Effectively adapt and use existing laws and regulation, as well as exploring the need for new measures, to more fully account for the impacts of AI technologies.

2



Shaping the market

Actively work to shape AI technologies in the market for the benefit of people and communities.

3



Enabling public sector response

Opportunities to support the public sector to respond effectively and meet public needs in respect of this urgent challenge.

Policy opportunities

The full report outlines a **set of 15 policy opportunities** under three broad headline areas to promote responsible use of AI. Five examples are listed here.

Law, guidance, and oversight to manage risk and reduce harm

Shaping the development and use of AI to increase social benefit

Supporting the public sector to respond effectively



Regulatory strategy

Establish a regulatory strategy for AI development and use in the market, reflecting the AI regulation principles of notification, explainability, disputes and appeals, and liability.



Audit and reporting

Implement auditing and public reporting requirements in response to the greatest risks of harm to the community arising from AI.



Transparency on assurance

Resource and explicitly encourage the NSW AI Review Committee to publish educative case studies and assurance reviews communicating lessons from its work.



Adopt codes of practice

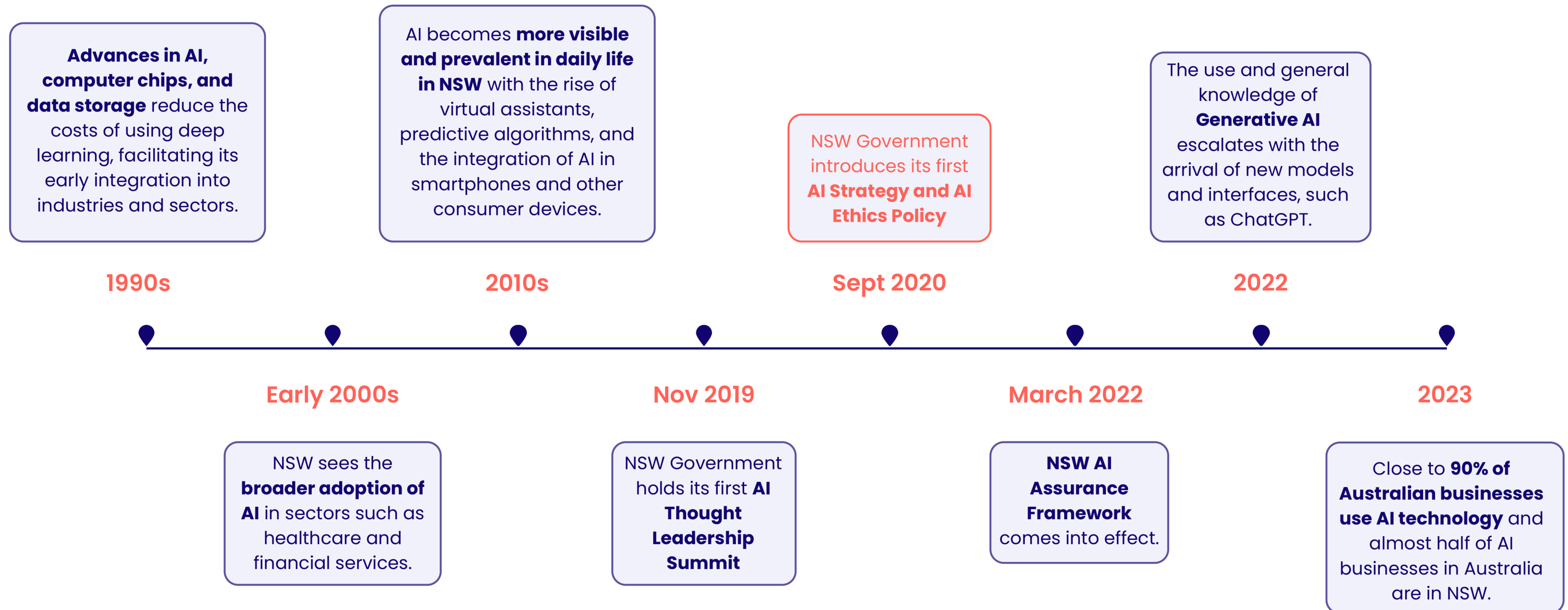
Adopt and/or endorse codes of practice to guide compliance with existing legal obligations, to integrate into procurement requirements, and for voluntary adoption more broadly across the private sector.



Emerging Technology Commissioner

Create an independent Emerging Technology Commissioner to support and facilitate responsible AI design, development, and deployment across the market.

AI in NSW: A brief timeline



Driving accountability in the market



Accountability should be embedded across the entire cycle when the use of AI can affect a person's rights or interests. There are several high-level principles the NSW Government should consider adopting as part of its strategy for regulating AI.

Liability

Allocating responsibility for conduct that causes wrongful harm to the rights and interests of persons.

Dispute and appeal pathways

People in NSW should be able to raise complaints, disputes and appeals of decisions through clear pathways.



Notification

Notification of when the use of AI could affect people's rights and interests.

Explainability

Ability to obtain information, reasons, or an explanation of AI-informed decisions or professional practices.

New and existing regulatory measures



NSW can leverage existing legislation to respond to risks, as well as considering new regulation to respond to AI.

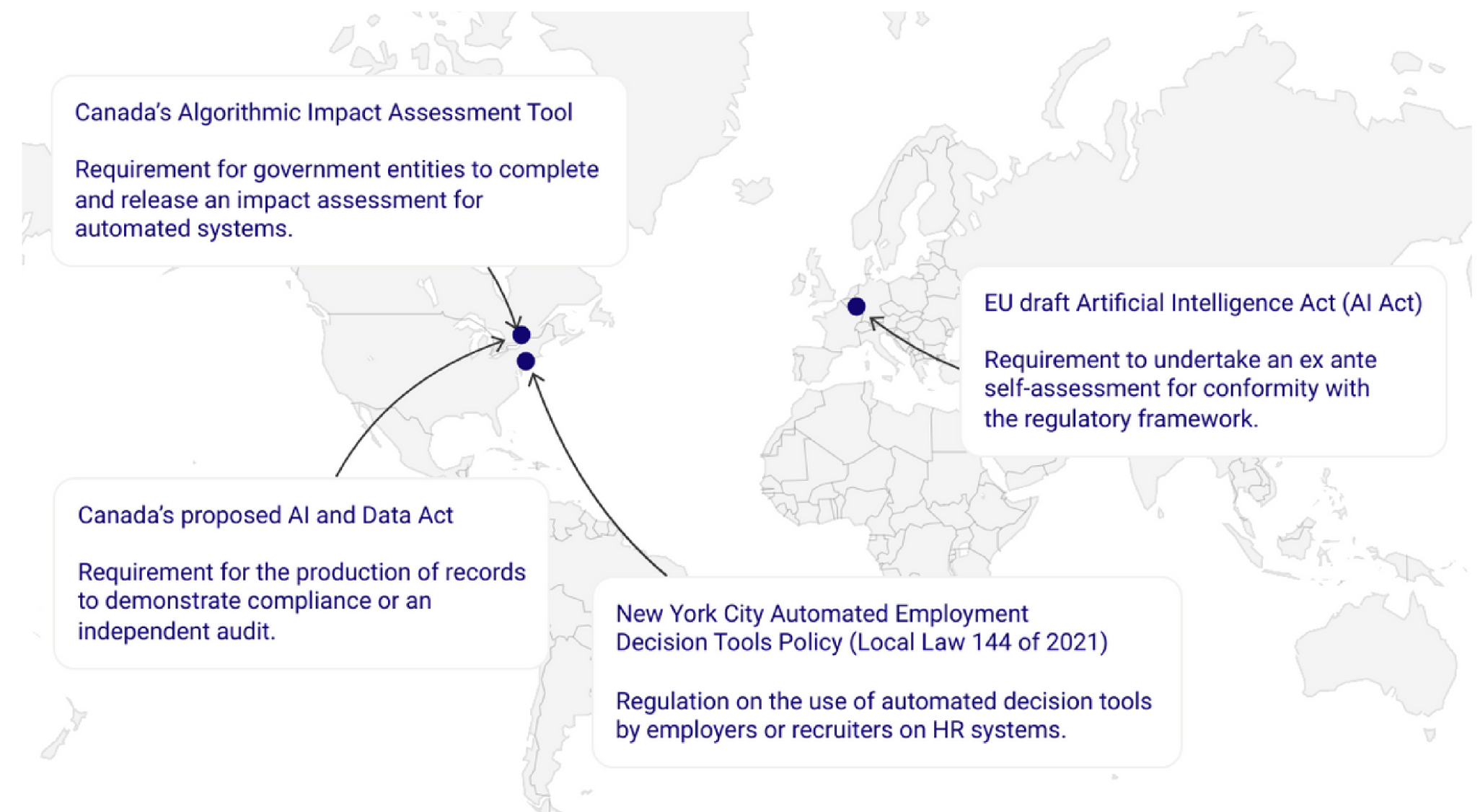
An example of this is the Anti-Discrimination Act 1977 (NSW) which could respond to the risks of discrimination and bias arising from AI.

A **case study** on this in the report demonstrates how AI risks can be partially addressed through laws of general application. The case study also illustrates the importance of equipping general regulators to respond to AI-related issues.

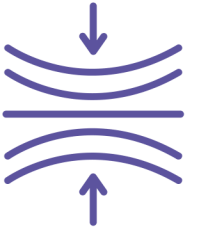
Auditing is an increasingly common tool used around the world to manage the risks of AI. Audits and reporting requirements can also be used selectively to target particular risks.

Examples from overseas

Jurisdictions around the world have implemented, or are considering requirements, that entities using AI be subject to regular “audits” or reporting requirements.



Shaping the market with government levers



Regulatory “sandboxes” can be used to test new approaches outside of existing regulatory structures. Regulatory “safe harbours” can encourage adherence to standards and recognised best practices.

Sandboxes and Safe Harbours

Procurement

Procurement can be used to directly incentivise the development of new technologies, legitimise new product standards and create new markets. This can build on existing frameworks, such as the NSW Government AI Assurance Framework.

Shaping the AI Market

NSW Government can facilitate knowledge-transfer across the private sector by directly fostering engagement.

Knowledge transfer

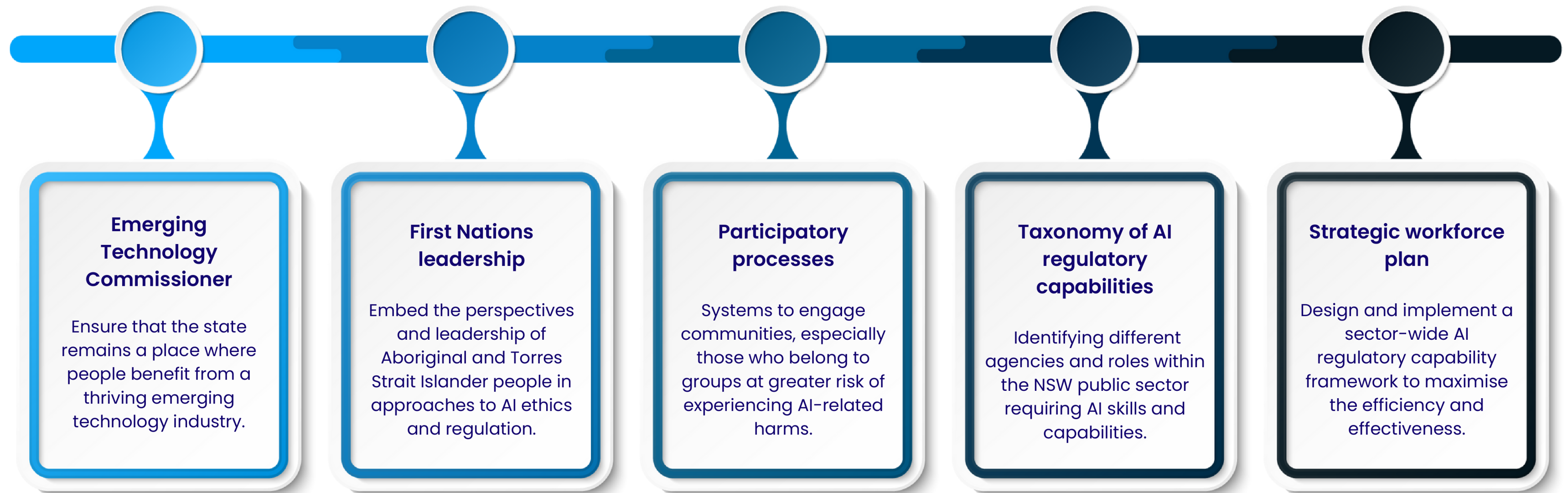
Codes of practice

Codes of practice can be used to explain binding legal obligations and outline ideal standards of conduct for a particular industry. Codes of practice should complement, rather than replace, other interventions.

Enabling effective public sector responses



Public servants across government will require new and adapted capabilities to respond to and shape the responsible use of AI beyond government, especially for staff who have direct engagement with the public or market.



An effective, strategic regulatory and shaping agenda on AI is a necessary element of ensuring NSW is a digital leader – capable of attracting talent and investment in support of inclusive economic growth and ensuring technological advances deliver better outcomes for diverse communities.

ACCESS FULL
REPORT:



About JMI

JMI is a unique joint-venture that works to more effectively harnessing Australia's cutting-edge research expertise. A formal partner of both NSW government and leading universities, the Institute works with the public service to forge expert networks to address complex challenges and future trends.

Established in 2021 as an independent, non-partisan institute with charitable status, JMI has already had a substantial impact, promoting evidence-based policymaking and strategy for the public good across a wide range of issues.

JMI Collaborative Projects

This model brings together government, academia, and other experts and stakeholders to work cooperatively on challenging policy issues. For this project, the JMI project team worked in close collaboration with the NSW Government's Chief Data Scientist within the Department of Customer Service, and was advised by an Expert Advisory Group of which the Chief Data Scientist was also a member. Leading AI researchers and experts from universities and civil society, policymakers and stakeholders were consulted throughout. The content is a product of genuine collaboration between those involved.

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